

UNITED STATES DISTRICT COURT
FEDERAL BUILDING COURT
1550 MAIN STREET
SPRINGFIELD, MA 01101

Eugene E.Konopko
70 Danek Dr.
Westfield, MA 01085

VS.

Westfield Housing Authority
12 Alice Burke Way
Westfield, MA 01085

COMPLAINT AND REQUEST FOR TRIAL

PARTIES

1. Plaintiff, Eugene E.Konopko, natural person, a residence located at 70 Danek Dr. Westfield, MA 01085
2. Defendant, Westfield Housing Authority, 12 Burke Way, Westfield, MA

JURISDICTION AND VENUE

3. I moved to the apartment with my wife in 1995 and the apartment not been painted, but if moved another tenants every apartment been painted, it's segregation tenants, why?

COUNT ONE

4. Westfield Housing Authority violation the State Sanitary Code, because the apartment we can't to keep clean if by more than 10 years not painted. It's to danger for health, can to be cause an insect, indecent and not very sanitary.

COUNT TWO

5. City of Westfield, Board of Health Dept. sent a letter to Westfield Housing Authority, violation about the paint. Apartment usually should be painted every five years.

COUNT THREE

page 2

6. WHA disagree to paint apartment,because lack of staff,it's not true,why for another tenants been painted,not lack of staff?

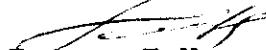
COUNT FOUR

7. I cannat repeint the apartment myself,because I am disability and have low income,so I propose:I can find staff for paint, but I must deduct from the cost from my rent which I pay to WHA.

COUNT FIVE

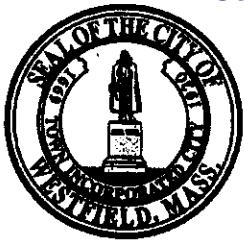
8. According to agreement Section II letters A & F Housing Authority is responsibility to paint,BECAUSE THE APARTMENT SHOULD TO BE CLEAN AND SAFE.

Very truly your,


Eugene E. Konopko

Dated:July 5/05

Enc. copy letters 3



City of Westfield, Massachusetts
Health Department

December 27, 2004

Westfield Housing Authority
Alice Burke Way
Westfield, MA 01085

Attn.: Dan Kelly, Director

**Attached please find a copy of a letter received on this date from Eugene Konopko,
70 Danek Drive. He is requesting that his unit be painted.**

**The State Sanitary Code would not mandate painting generally, however many
property managers use a 5 year painting cycle.**

**When time permits could you have a member of your maintenance staff view the
subject unit, and determine if the request is valid.**

Thanks,


Daniel Reardon, Director
Westfield Board of Health

Cc: E. Konopko ✓

posted and maintained on such dwelling adjacent to the mailboxes for such dwelling or elsewhere in the interior of such dwelling in a location visible to the residents a notice constructed of durable material, not less than 20 square inches in size, bearing his name, address and telephone number. If the owner is a realty trust or partnership, the name, address and telephone number of the managing trustee or partner shall be posted. If the owner is a corporation, the name, address and telephone number of the president of the corporation shall be posted. Where the owner employs a manager or agent who does not reside in such dwelling, such manager or agent's name, address and telephone number shall also be included in the notice. (See M.G.L. c. 143, § 3S.)

410.482: Smoke Detectors

The owner of every dwelling that is required by any provision of the Massachusetts General Laws to be equipped with smoke detectors shall provide and maintain all such required smoke detectors in compliance with such provision and with any applicable regulation of the State Board of Fire Prevention (527 CMR) or of the State Fire Marshall.

The board of health shall immediately notify the fire prevention official of the local fire department of any violation of 105 CMR 410.482 which is observed during an inspection of any dwelling.

If any dwelling is found by the local fire department to be adequately equipped with smoke detectors, the board of health shall not be authorized by 105 CMR 410.482 to impose any additional or differing smoke detector requirement beyond that which has been found sufficient by the local fire department.

410.483: Auxiliary Emergency Lighting Systems and Exit Signs

The owner of every multiple dwelling of ten or more units shall provide such dwelling with an auxiliary emergency lighting system independent of the conventional lighting system, and with lighted signs indicating both a primary and secondary means of egress, by a diagram or signal so as to assure recognition by all persons regardless of their English speaking ability. Such lighting system signs shall be maintained in good working order in compliance with any applicable regulations promulgated by the Commissioner of

Public Safety (See 780 CMR 1023.0, 780 CMR 1024.0 and M.G.L. c. 143, § 21D).

410.484: Building Identification

The owner shall affix to every building covered by 105 CMR 410.000, a number representing the address of such building. The number shall be of a nature and size and shall be situated on the building so that, to the extent practicable, it is visible from the nearest street providing vehicular access to such building (M.G.L. c. 148, § 59).

410.500: Owner's Responsibility to Maintain Structural Elements

Every owner shall maintain the foundation, floors, walls, doors, windows, ceilings, roof, staircases, porches, chimneys, and other structural elements of his dwelling so that the dwelling excludes wind, rain and snow, and is rodent-proof, watertight and free from chronic dampness, weathertight, in good repair and in every way fit for the use intended. Further, he shall maintain every structural element free from holes, cracks, loose plaster, or other defect where such holes, cracks, loose plaster or defect renders the area difficult to keep clean or constitutes an accident hazard or an insect or rodent harborage.

410.501: Weathertight Elements

(A) A window shall be considered weathertight only if:

- (1) all panes of glass are in place, unbroken and properly caulked; and
- (2) the window opens and closes fully without excessive effort; and
- (3) exterior cracks between the prime window frame and the exterior wall are caulked; and
- (4) one of the following conditions is met:
 - (a) a storm window is affixed to the prime window frame, with caulking installed so as to fill exterior cracks between the storm window frame and the prime window frame; or
 - (b) weatherstripping is applied such that the space between the window sash and the prime window frame is no larger than 1/16 inch at any point on the perimeter of the sash, in the

September 20/04

Eugene Konopko
70 Danek Dr.
Westfield, MA 01085

Mr. Daniel Kelly-Director
Westfield Housing Authority
12 Alice Burke Way
Westfield, MA 01085

Dear Mr. Kelly

I moved to apartment in 1995, but not painted the inside.
WHA has a legal responsibility to paint.
It's a violation a lease, Section II letters A, F of the State
Sanitary Code.
I am disabled and I can't paint self, so please use own
maintenance staff to do it for me.
When to be painted?
Please send for me answer to October 20/04

Sincerely,

Copy: Hugh J. Flynn, Attorney
37 Broad St.
Westfield, MA 01085

cc: own.

Souza Olesz

September 23/04

Eugene E.Konopko
70 Danek Dr.
Westfield,MA 01085

Mr.D.Kelly-Director
Westfield Housing Authority
12 Alice Burke Way
Westfield,MA 01088

Dear Mr.Kelly

In response to your a letter,dated 09/20/04 I'll explain as follows; I and my wife we're living at this apartment more than nine years and never been painted.

It's a very funny joke,because by nine years WHA can't to paint apartment,lack of staff.

It's not very sanitary and is danger for health.

At this situation I propose;I can find staff,but I'll pay for the rent 50% and second 50% to save money for staff. I've a plan to begin 10/01/04 to 04/01/05.

I am waiting to answer Sept.30/04

cc:Mr.Hugh J.Flynn-Attorney
37 Broad St.
Westfield,MA

cc: Own.

Sincerely,

Eugene E.Konopko

J. Not remove any smoke detectors, batteries and/or other fire safety equipment in the unit, building and/or common areas. Tenant shall not damage or destroy any such detector or other fire safety equipment or render it inoperable. Tenant shall give immediate notice to the HA of any detector or fire safety equipment that does not work.

K. Pay the HA costs in an eviction action if the action results in voiding of the lease, eviction, or if the payment of the costs by tenant is specified in an agreement for judgment.

L. Live and each household member shall live in the unit at least nine months in any twelve month period.

M. Transfer to a unit of appropriate size if warranted by a family size decrease, for modernization work, or for other good cause, as approved by DHCD, upon a written 30 day notice to the Tenant by the HA.

N. Use unit solely for a private dwelling unit except as otherwise allowed for legal profit-making activities by DHCD regulations and HA approval, and to not take in boarders and/or lodgers. Tenant shall not sublet or transfer possession of the unit.

O. Comply with all HA written rules and policies.

P. Permit access as provided in Section III Unit Entry.

Q. Comply with an order of a Mass. Court with jurisdiction that determines entitlement to continued occupancy in the event of divorce, separation, or entry of a protective order.

R. Refrain and shall cause household members to refrain from any and all criminal conduct in or near the unit or on HA property and its vicinity and to refrain from serious criminal conduct outside HA property.

III. HOUSING AUTHORITY RESPONSIBILITIES

The HA shall:

A. Provide a decent, safe and sanitary unit in compliance with Chapter II of the State Sanitary Code with re-keyed locks and a working stove at the effective date of the lease.

B. Provide and maintain in good condition the heating and hot water facilities for the unit and provide heat and hot water where applicable.

C. Provide reasonable extermination services.

D. Maintain the structural elements of the building containing the unit.

E. Maintain common areas of the building and grounds.

F. Make repairs to the unit as required by the State Sanitary Code within a reasonable period of time after Tenant's notification.

G. Notify Tenant in writing of the specific reasons for any proposed action against the Tenant and to notify Tenant of his/her rights to request a grievance hearing if available (see Section V).

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>I. (a) PLAINTIFFS Eugene E.Konopko 70 Danek Dr.Westfield, MA 01085</p> <p>(b) County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES) Eugene E.Konopko 70 Danek Dr.Westfield, MA 01085</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) _____</p>	<p>DEFENDANTS Westfield Housing Authority 12 Alice Burke Way Westfield, MA 01085</p> <p>County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known) _____</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>		<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table border="1" style="width: 100%;"> <tr> <td style="width: 50%;">Citizen of This State</td> <td style="width: 15%; text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="width: 15%; text-align: center;"><input type="checkbox"/> 2</td> <td style="width: 50%;">Incorporated or Principal Place of Business In This State</td> <td style="width: 15%; text-align: center;"><input type="checkbox"/> 4</td> <td style="width: 15%; text-align: center;"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 6</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 7</td> </tr> </table>				Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 2	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 5	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 3	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 6	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 4	Foreign Nation	<input type="checkbox"/> 6	<input checked="" type="checkbox"/> 7
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 4	Foreign Nation	<input type="checkbox"/> 6	<input checked="" type="checkbox"/> 7																		

<p>IV. NATURE OF SUIT (Place an "X" in One Box Only)</p>					
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<p>PERSONAL INJURY</p> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	FEDERAL TAX SUITS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input checked="" type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <p>Habeas Corpus:</p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN	(Place an "X" in One Box Only)					
<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input checked="" type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION		Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):					
		Brief description of cause: Violation the State Sanitary Code.					

VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
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VIII. RELATED CASE(S) IF ANY	(See instructions): JUDGE _____ DOCKET NUMBER _____					
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DATE	SIGNATURE OF ATTORNEY OF RECORD					
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FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Violation the State Sanitary Code

1. Title of case (name of first party on each side only)

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, *Also complete AO 120 or AO 121
740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. for patent, trademark or copyright cases
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310,
315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371,
380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660,
690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES NO 7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES NO A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division

Central Division

Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division

Central Division

Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Eugene E. KonopkoADDRESS 70 Danek Dr. Westfield, MA 01085TELEPHONE NO. 563-1374